

AMENDED IN ASSEMBLY AUGUST 23, 2001

AMENDED IN ASSEMBLY JUNE 11, 2001

AMENDED IN SENATE APRIL 16, 2001

SENATE BILL

No. 974

Introduced by Senator Torlakson
(Coauthor: Assembly Member Wiggins)

February 23, 2001

An act to add Section 1100.7 to the Public Contract Code, relating to public contracts.

LEGISLATIVE COUNSEL'S DIGEST

SB 974, as amended, Torlakson. Public contracts: cities.

The Public Contract Code contains various definitions of a “public entity,” all of which include a city as a public entity. Under the California Constitution, a city may, as an alternative to being entirely subject to the general law of the state, elect to operate pursuant to a charter that authorizes the enactment of ordinances and regulations superseding the general law of the state with respect to municipal affairs.

This bill would state that the Public Contract Code is the basis of contracts between most public entities and their contractors and subcontractors. This bill would further state, with regard to charter cities, that this code applies in the absence of an express exemption or a ~~charter city~~ *city charter provision or ordinance that is in direct conflict* ~~conflicts~~ with that code.

The bill would state that these provisions are declaratory of existing law.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1.—The Legislature finds and declares that there is~~
2 ~~considerable ambiguity as to how certain provisions of the Public~~
3 ~~Contract Code that refer to a “city” should be construed. To end~~
4 ~~this ambiguity, and to state the Legislature’s intent that charter~~
5 ~~cities be subject to all provisions of the Public Contract Code, in~~
6 ~~the absence of a specific exemption or a direct conflict with a city~~
7 ~~charter, it is necessary in this act to add Section 1100.7 to the Public~~
8 ~~Contract Code to codify the holding in Howard Contracting, Inc.~~
9 ~~v. G. A. MacDonald Construction Co. (1998) 71 Cal.App.4th 38.~~

10 ~~SEC. 2.—~~

11 ~~SECTION 1.~~ Section 1100.7 is added to the Public Contract
12 Code, to read:

13 1100.7. This code is the basis of contracts between most
14 public entities in this state and their contractors and
15 subcontractors. With regard to charter cities, this code applies in
16 the absence of an express exemption or a ~~charter city~~ *city charter*
17 ~~provision or ordinance that is in direct conflict~~ *conflicts* with the
18 relevant provision of this code.

19 ~~SEC. 3.—~~

20 ~~SEC. 2.~~ The Legislature finds and declares that Section
21 1100.7 of the Public Contract Code, as added by this act, is
22 declaratory of existing law *as set forth in the holding in Howard*
23 ~~Contracting, Inc. v. G.A. MacDonald Construction Co. (1998) 71~~
24 ~~Cal.App.4th 38.~~

